

5/027/084



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North  
Fillmore, UT 84631  
<http://enbb.blm.interwebdesign.com>



IN REPLY REFER TO:  
3802  
(U-010)  
UTU-078270

October 19, 1999

CERTIFIED MAIL # Z 416 015 357  
RETURN RECEIPT REQUESTED

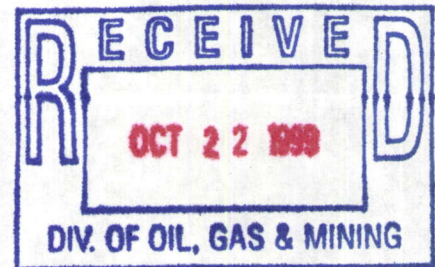
### DECISION

ROBERT STEELE  
1055 NORTH 4<sup>TH</sup> EAST  
NEPHI UT 84648

TERRY STEELE  
1055 NORTH 4<sup>TH</sup> EAST  
NEPHI UT 84648

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PLAN OF OPERATIONS  
REJECTED



A copy of your Plan of Operations (Plan) for the Silver Dream mine, located in the N $\frac{1}{2}$  Sec. 8, T. 21 S., R. 16 W., SLBM, was received in this office October 18, 1999. Your Plan was forwarded to this office by the Utah Division of Oil, Gas and Mining (UDOGM) as specified in the Memorandum of Understanding between UDOGM and the Bureau of Land Management (BLM).

All of Sec. 8, T. 21 S., R. 16 W., SLBM is located within the King Top Wilderness Study Area (WSA). Mining operations within WSAs are conducted under the 43 CFR §3802 regulations. A copy of these regulations is enclosed for your convenience.

The regulations at 43 CFR §3802.0-2(a) states that the objectives of this subpart are to allow mining operations in lands under wilderness review pursuant to the U.S. Mining Laws, but only in a manner that will not impair the suitability of an area for inclusion in the wilderness system unless otherwise permitted by law.

The regulations at 43 CFR §3802.0-5(d) define "impairment of suitability for inclusion in the Wilderness System" as taking actions that cause impacts, that cannot be reclaimed to the point



of being substantially unnoticeable in the area as a whole by the time the Secretary is scheduled to make a recommendation to the President on the suitability of a wilderness study area for inclusion in the National Wilderness Preservation System.

The result of these two regulations is to prohibit actions which would degrade wilderness values so far, as compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability for preservation as wilderness.

In *Manville Sales Corp.* (102 IBLA 385) the Interior Board of Land Appeals upheld a rejection by the BLM of a proposed Plan in a WSA. The BLM determined that the impacts of road construction could not be reclaimed to meet the criteria of being substantially unnoticeable in the area as a whole by the time the Secretary was scheduled to make his recommendation to the President. A copy of this decision is enclosed for your convenience.

The date the Secretary was to make his recommendation to the President for the King Top WSA was September 30, 1990. As this date has already past, the Secretary could make his recommendation to the President at any time. Any impacts which could impair the suitability of a WSA for Wilderness designation are prohibited.

Accordingly, your Plan is rejected.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each part named in this decision and to the Interior Board of Land appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a



stay, you have the burden of proof to demonstrate that a stay should be granted.

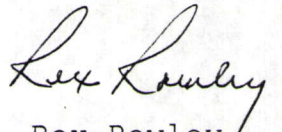
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Ron Teseneer at 435-743-3126.

Sincerely,

  
Rex Rowley  
Field Manager

3 Enclosures

- 1 - 43 CFR §3802 Regulations (10 p.)
- 2 - *Manville Sales Corp.* (102 IBLA 385) (8 p.)
- 3 - Form 1842-1, Information on Taking Appeals to the Board of Land Appeals (2 p.)

cc: U-931

UDOGM (S/027/084)